

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

DEMETRIUS MILES,)	CASE NO. 5:05 CV 1649
)	
Plaintiff,)	JUDGE JAMES S. GWIN
)	
v.)	<u>MEMORANDUM OF OPINION</u>
)	<u>AND ORDER</u>
STATE OF OHIO,)	
)	
Defendant.)	

On June 22, 2005, plaintiff pro se Demetrius Miles, an inmate at the Lake Erie Correctional Institution, filed this civil rights action against the State of Ohio. The complaint alleges plaintiff was convicted of drug related offenses. He asserts that the trial court erred in denying his motion for acquittal and his motion to suppress evidence, and he seeks to "appeal" to this court.

A district court is expressly required to dismiss any civil action filed by a prisoner seeking relief from a governmental employee or entity, as soon as possible after docketing, if the court concludes that the complaint fails to state a claim upon which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §1915A; Siller v. Dean, No. 99-5323, 2000 WL 145167 , at *2 (6th Cir. Feb. 1, 2000).

The complaint challenges the validity of plaintiff's conviction and current confinement in a correctional institution. When a prisoner challenges "the very fact or duration of his physical imprisonment, ... his sole federal remedy is a writ of habeas corpus." Preiser v. Rodriguez, 411 U.S. 475 (1973).

Accordingly, this action is dismissed. Further, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

Dated: August 19, 2005

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE